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MONTANA LEGISLATIVE HISTORY

Chapter 343 Session L 1979
Bill House ____ Senate 83

History and final status sheet NA
Introduced bill X
Fiscal note X
Third reading bill X
Final version of bill X

House Committee on Business & Industry
Hearing date(s)* 3-9 ____
____ ____
Executive action (vote) date(s)* 3-9
Comm. Report Not available
Floor 2nd reading & vote 3-13
Floor 3rd reading & vote 3-15

Senate Committee on Business & Industry
Hearing date(s)* 1-27 ____
____ ____
Executive action (vote) date(s)* 1-27
Comm. Report 1-27
Floor 2nd reading & vote 2-1
Floor 3rd reading & vote 2-3

Conference or Free Conference Comm. ____ Yes X No
Hearing date(s)* ____
Executive action (vote) date(s)* ____

* Includes minutes, exhibits, roll call, visitors register, and vote sheet if available.

Did this bill originate in an interim committee? ____ Yes X No
Committee ____ Report ____

NOTES: By Request of State Commissioner of Insurance.

An Act to provide for regulation & registration of persons who collect charges or premiums or adjust or settle claims on life or health insurance policies or annuities of residents of Montana.

State Law Library of Montana

Compiled by: rg
Date: 1-11-18

001

Chapter No.	Bill No.	Chief Sponsor	Effective Date	Date Signed By Governor

Summary of Provisions

Provides for a 10-day recission period on disability insurance policies issued on or after January 1, 1980.

Amends: 33-22-201
Enacts: 33-30-1005

343 SB 83 Dover 7/1/79 3/28/79
By request of the State Commissioner of Insurance

Provides for registration and regulation of persons who collect charges or premiums or adjust or settle claims in connection with annuities or life or health insurance coverage.

Enacts: 33-17-601 through 33-17-605, 33-17-611 through 33-17-618

344 SB 92 Blaylock 7/1/79 3/28/79
By request of the Commissioner of Insurance

Revises the license fee schedule relating to insurance companies and the terminology for renewal of licenses.

Amends: 33-2-708, 33-17-218, 33-17-231

345 SB 93 Lowe 7/1/79 3/28/79
By request of the Commissioner of Insurance

Generally revises the law relating to insurance agents, solicitors, adjusters, and consultants.

Amends: 33-17-204, 33-17-211, 33-17-212, 33-17-214, 33-17-216, 33-17-218, 33-17-231, 33-17-401, 33-17-404, 33-17-1101, 33-17-1103, 33-17-1111, 33-22-813
Repeals: 33-17-215

346 SB 94 Hazelbaker 7/1/79 3/28/79
By request of the Commissioner of Insurance

Revises the law relating to standard valuation and standard nonforfeiture in life insurance.

Amends: 33-2-523 through 33-2-526, 33-20-201, 33-20-206, 33-20-207
Enacts: 33-20-501 through 33-20-513

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46TH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS & INDUSTRY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB # 9	1/6/79	1/23/79	1/27/79	1/27/79					
SB # 10	1/6/79	1/27/79	1/27/79	1/27/79					
SB # 39	1/22/79	1/22/79	1/22/79	1/22/79					
SB # 55	1/10/79	1/19/79	1/19/79			1/19/79			
SB # 62	1/19/79	1/31/79	1/31/79	1/31/79					
SB # 64	1/6/79	1/27/79	1/27/79			1/27/79			
SB # 70	1/5/79	1/25/79	1/31/79			1/31/79			
SB # 73	1/5/79	1/12/79	1/12/79			1/12/79			
SB # 80	1/10/79	1/27/79	1/27/79			1/27/79			
SB # 81	1/10/79	1/27/79	2/1/79			2/1/79			
SB # 82	1/10/79	1/23/79	1/29/79	1/29/79					
SB # 83	1/10/79	1/27/79	1/27/79	1/27/79					
SB # 84	1/10/79	1/24/79	1/31/79			1/31/79			
SB # 85	1/10/79	1/27/79	1/27/79	1/27/79					
SB # 86	1/10/79	1/27/79	2/10/79	2/10/79					
SB # 87	1/11/79	-----	TABLED						

Use a separate sheet for Senate, House Bills, and Resolutions.

Senate BILL NO. 83

INTRODUCED BY Doug Blaylock

BY REQUEST OF THE STATE COMMISSIONER OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE REGULATION AND REGISTRATION OF PERSONS WHO COLLECT CHARGES OR PREMIUMS OR ADJUST OR SETTLE CLAIMS ON LIFE OR HEALTH INSURANCE POLICIES OR ANNUITIES OF RESIDENTS OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Administrator defined. As used in [this act], the term "administrator" means any person, corporation, partnership, or association who collects charges or premiums from residents of this state in connection with life or health insurance coverage or annuities or who adjusts or settles claims on such coverage but does not include:

(1) an employer on behalf of its employees or on behalf of the employees of one or more subsidiary or affiliated corporations of such employer;

(2) a union on behalf of its members;

(3) an insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or health service corporation as defined in 33-30-101;

(4) a life or health agent who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(5) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(6) a trust established in conformity with 29 U.S.C. 186, its trustees, or agents and employees acting thereunder;

(7) a trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, or employees acting thereunder;

(8) a custodian acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code or its agents and employees;

(9) a bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities;

(10) a credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims; or

(11) a person who adjusts or settles claims in the

SB 83

INTRODUCED BILL

0045

normal course of his practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Section 2. Written agreement required. (1) No person may act as an administrator without a written agreement between the person and the insurer. The written agreement shall be retained as part of the official records of both the administrator and the insurer for the duration of the agreement and for 5 years thereafter. The written agreement shall contain provisions which include the requirements of [sections 4 through 10] insofar as these requirements relate to the functions performed by the administrator.

(2) The agreement shall contain a provision with respect to the underwriting or other standards pertaining to the business underwritten by such insurer.

(3) Whenever a policy is issued to a trustee, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the administrator and the insurer for the duration of the policy and for 5 years thereafter.

Section 3. Maintenance of information. For the duration of the agreement required by [section 2] and for 5 years thereafter, each administrator shall maintain at its

principal administrative office adequate books and records of all transactions between the administrator, insurers, and insured persons. These books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner of insurance shall have access to these books and records for examination, audit, or inspection. Any trade secrets contained in the books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except that the commissioner may use such information in any proceedings instituted against the administrator. The insurer retains the right to continuing access to those books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and the administrator.

Section 4. Approval of advertising. An administrator may use only such advertising pertaining to the business underwritten by an insurer as is approved by the insurer in advance of its use.

Section 5. Collection of charges and premiums. (1) All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers and return premiums received from such insurer or insurers are held by

the administrator in a fiduciary capacity. These funds shall be immediately remitted to the person or persons entitled thereto or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If deposited charges or premiums were collected on behalf of or for more than one insurer, the administrator shall require the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall promptly obtain and keep copies of all these records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for the insurer.

(2) The administrator shall not pay any claim by withdrawals from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the administrator and the insurer, for:

(a) remittance to an insurer entitled thereto;

(b) deposit in an account maintained in the name of such insurer;

(c) transfer to and deposit in a claims paying account, with claims to be paid as provided in [section 7];

(d) payment to a group policyholder for remittance to the insurer entitled thereto;

(e) payment to the administrator of its commission, fees, or charges; or

(f) remittance of return premiums to the person or persons entitled thereto.

Section 6. Treatment of payments. Whenever an insurer utilizes the services of an administrator under the terms of a written contract as required in [section 2], the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured is considered to be received by the insurer and the payment of return premiums or claims by the insurer to the administrator is not considered payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the administrator resulting from the administrator's failure to make payments to the insurer, insureds, or claimants.

Section 7. Payment of claims. All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on drafts of and as authorized by such insurer.

Section 8. Delivery of documents. Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to its policyholders shall be delivered by the administrator promptly after receipt of

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instructions from the insurer to do so.

Section 9. Claim adjustment and settlement. With respect to any policies where an administrator adjusts or settles claims, the compensation to the administrator with regard to the policies shall in no way be contingent on claim experience. This section does not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

Section 10. Bonding requirements. Every administrator shall be bonded. The amount of the bond shall be not less than 10% of the amount of total funds handled and not less than $1,000, but need not be more than $500,000 unless a larger amount has been agreed to between the insurer and the administrator. For fixing the amount of the bond, the amount of funds handled shall be determined by the total funds handled by the administrator during the preceding year or, if no funds were handled during the preceding year, the amount of funds reasonably estimated to be handled during the current calendar year by the administrator. The bond shall provide protection to the insurer or insurers against loss by reason of acts of fraud or dishonesty and may include individual bonds or schedule or blanket forms of bonds. Only one bond shall be required of the administrator for all insureds which utilize the services of the

administrator, unless provided otherwise in the written agreement between the insurer and the administrator.

Section 11. Insured persons to be notified of availability of administrator. Whenever the services of an administrator are utilized, the administrator shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship between the administrator, the policyholder, and the insurer. Whenever an administrator collects funds, the administrator shall identify and state, separately in writing, to the person paying to the administrator any charge or premium for insurance coverage the amount of such charge or premium specified by the insurer for the insurance coverage.

Section 12. Certificate of registration. (1) Except as provided in [section 13], no person may act as or hold himself out to be an administrator in this state unless he holds a certificate of registration as an administrator.

(2) An application for a certificate of registration must be accompanied by a fee of $100. The commissioner of insurance shall issue the certificate unless he finds that the applicant is not competent, trustworthy, financially responsible, or of good personal and business reputation or that the applicant has had a previous application for an insurance license denied for cause within 5 years.

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(3) The certificate of registration is renewable annually on the date of issue. A request for renewal must be accompanied by a renewal fee of $100.

(4) The certificate of registration may be suspended or revoked if, after notice and hearing, the commissioner finds that the administrator has violated any of the requirements of [sections 2 through 11] or that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

(5) Unless the certification requirement is waived, any administrator who acts as such without the certificate of registration is subject to a fine of not less than $500 or more than $1,500.

Section 13. Waiver of certification requirements. The commissioner of insurance may waive the requirements of [section 12] for any person or class of persons. The factors taken into account in granting such waiver shall include but are not limited to:

(1) whether the person acting as an administrator is primarily in a business other than that of administrator;

(2) whether the financial strength and history of the organization indicates stability in its continuity of doing business;

(3) whether the regular duties being performed as an administrator are such that the covered persons are not

likely to be injured by a waiver of such requirements.

-End-

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STATE OF MONTANA

Request No. 490-79

FISCAL NOTE

Form BD-15

In compliance with a written request received March 19, 1979, there is hereby submitted a Fiscal Note for Senate Bill 83 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for the regulation and registration of persons who collect charges or premiums or adjust or settle claims on life or health insurance policies or annuities of residents or Montana.

FISCAL IMPACT:

Minimal.

Richard L. Dawson Jr.

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 3/20/79

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

January 27, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: Upon roll call all members were present.

CONSIDERATION OF SB 9: An act to amend section 33-2-111, MCA, relating to deposit requirements of insurers, by increasing deposit requirements of title insurers.

Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 9 to the Committee and state why it was requested. Ms. Driscoll summarized SB 9 for the Committee after which Chairman Hazelbaker asked for any further proponents. Hearing none, Chairman Hazelbaker asked for any opponents. Hearing none, Chairman Hazelbaker opened the hearing to questions from the Committee and a brief discussion of SB 9 followed.

Chairman Hazelbaker stated that if the Committee had no objection, he would like to take executive action on any bills the Committee had no real questions about. The Committee agreed with Chairman Hazelbaker's suggestions.

DISPOSITION OF SB 9: Senator Lowe moved that SB 9 receive a DO PASS recommendation. Senator Kolstad seconded the motion. SB 9 was unanimously passed and was unanimously placed on the Consent Calendar.

CONSIDERATION OF SB 10: An act to repeal sections 33-2-1001 through 33-2-1007, MCA, relating to regulation of insurance holding companies.

Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 10 to the Committee and state why it was requested. Ms. Driscoll summarized SB 10 for the Committee. There were no other proponents or opponents to SB 10 and the Committee had no questions.

DISPOSITION OF SB 10: Senator Lowe moved that SB 10 receive a DO PASS recommendation and be put on the consent calendar. Senator Dover seconded the motion. SB 10 was unanimously passed and was unanimously placed on the Consent Calendar.

CONSIDERATION OF SB 64: An act to amend section 33-16-203, MCA, relating to filing of insurance rates.

Committee. There were none.

DISPOSITION OF SB 80: Senator Hager moved that SB 80 receive a DO PASS as Amended recommendation and Senator Dover Seconded the motion. The motion carried unanimously.

Chairman Hazelbaker drew the Committee's attention to the fiscal note accompanying SB 80 which states SB 80 has no fiscal impact.

CONSIDERATION OF SB 81: An act to provide for a 10-day rescission period on disability insurance policies issued by insurance companies and membership contracts issued by health service corporations; amending section 33-22-201, MCA.

Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 81 to the Committee and state why it was requested. Ms. Driscoll summarized SB 81 for the Committee.

Chairman Hazelbaker asked for any more proponents or opponents. Tom Harrison, MPS and Blue Shield, said he was concerned about this bill where group policyholders are concerned since no policy is ever delivered to a group policyholder. Ms. Driscoll responded by stating that it was the intent of the bill to apply only to individual policyholders, not group policyholders, and had no objection to additional wording being added to make that clear if the Committee felt it was necessary.

Senator Dover moved that SB 81 receive a DO PASS recommendation. Mr. Harrison suggested SB 81 be amended to distinguish that it does not apply to group policyholders. Senator Dover withdrew his motion in view of the suggested amendment by Mr. Harrison.

Mr. Harrison was not prepared to propose an amendment to the Committee which would address the area he was concerned about, so the Committee decided to wait to take action on SB 81 until they received the recommendation from Mr. Harrison.

CONSIDERATION OF SB 83: An act to provide for the regulation and registration of persons who collect charges or premiums or adjust or settle claims on life or health insurance policies or annuities of residents of Montana.

Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 83 to the Committee and state why it was requested. Ms. Driscoll asked Rita Theisen, Attorney for the office of the Commissioner

of Insurance, to give a few examples to the Committee of where this bill would apply. Terry Meagher, office of the Commissioner of Insurance, elaborated on what Ms. Theisen told the Committee by giving additional examples of when this bill would apply. The Committee asked Ms. Theisen and Mr. Meagher several questions about the examples they gave.

Chairman Hazelbaker asked for any other proponents to SB 83. Mr. Les Loble II, American Council of Life Insurance, stated that he supported SB 83.

Chairman Hazelbaker asked for any opponents to SB 83. Mr. John Cadby, Montana Bankers Association, expressed concern about the further expense required to do what is asked in SB 83. Ms. Driscoll and Mr. Meagher responded to Mr. Cadby and further discussion occurred on SB 83.

DISPOSITION OF SB 83: Senator Blaylock moved that SB 83 receive a DO PASS recommendation. The motion carried unanimously.

CONSIDERATION OF SB 85: An act to amend section 33-5-401, MCA, increasing the surplus fund requirements of reciprocal insurers. Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 85 to the Committee and state why it was requested. Ms. Driscoll summarized SB 85 for the Committee.

Chairman Hazelbaker asked for any other proponents or opponents. He then opened the hearing to questions from the Committee on SB 85 and there were none.

DISPOSITION OF SB 85: Senator Kolstad moved that SB 85 receive a DO PASS recommendation and be put on the Consent Calendar. Senator Dover seconded the motion. SB 85 was unanimously passed and was unanimously placed on the Consent Calendar.

CONSIDERATION OF SB 86: An act to repeal section 33-23-311, MCA, relating to information required of professional liability insurers.

Chairman Hazelbaker called on Josephine M. Driscoll from the office of the Commissioner of Insurance to explain SB 86 to the Committee and state why it was requested. Ms. Driscoll summarized SB 86 for the Committee as well as the law it would repeal. Ms. Driscoll then called on Mr. John Fechter, office of the Commissioner of Insurance, to further explain SB 86. He supported SB 86 and stated that the section of law this bill would repeal just requires a lot of figures that mean

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

46TH LEGISLATIVE SESSION - - 1979 Date Jan. 27

NAME	PRESENT	ABSENT	EXCUSED
Pat Goodover, Vice Chairman	✓		
Chet Blaylock	✓		
Harold Dover	✓		
Tom Hager	✓		
Allen Kolstad	✓		
Bill Lowe	✓		
John Mehrens	✓		
Bob Peterson	✓		
Pat Regan	✓		
Frank Hazelbaker, Chairman	✓		

SENATE _____ COMMITTEE

BILL Insurance Commissioner } Agency Bill VISITORS' REGISTER DATE 1/27/79

(SB# 9, 10, 64, 80, 81, 83, 85, 86, 92, 93, 94, 101 * 139

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Ellen Burke	American Ins	all		
C. Rance Cole	Ind. Ins Agents of Montana	all		
Virgil E. Miller	Blue Cross of Mont	139		
Lloyd L. Hoffman	Blue Cross of Montana	139		
John Fachler	Ins Dept	(A) Bills		

014

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: John Cadby DATE: 1/27/99

ADDRESS: 706 Harrison

PHONE: 443-3536

REPRESENTING WHOM? MT Dentists Assn

APPEARING ON WHICH PROPOSAL: SB 83

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Terry Meagher DATE: 1-22-79

ADDRESS: 423 So. Fee St., Helena, MT. 59601

PHONE: 442-0682

REPRESENTING WHOM? Montana Dept of Insurance

APPEARING ON WHICH PROPOSAL: SB 9, 10, 64, 80, 81, 83, 85, 86, 92, 93, 94, 101, 139

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Pete Thomas DATE: 1-27-79

ADDRESS: Ins. Dept Mitchell Bldg

PHONE: 449-2996

REPRESENTING WHOM? Ins. Dept

APPEARING ON WHICH PROPOSAL: All ins. bills heard today

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Josephine D Mirisell DATE: 1-27-99

ADDRESS: Ins. Dept. Mitchell Bldg. Helena

PHONE: 449-2996

REPRESENTING WHOM? Insurance Dept., State Auditor's Office

APPEARING ON WHICH PROPOSAL: SB 9, 63, 64, 80, 81, 83, 85, 86, 92, 93, 94, (Hassilby 101-139)

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Les Loble II DATE: 1/27/79

ADDRESS: 716 Power Helena

PHONE: 442 0070

REPRESENTING WHOM? American Council of Life Insurance

APPEARING ON WHICH PROPOSAL: SB 10, 64, 80, 83, 92, 93, 94, [redacted]

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

January 27, 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 83

Respectfully report as follows: That Senate Bill No. 83

DO PASS

GC

Senator Frank Hazelbaker Chairman.

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STATE PUB. CO.
Helena, Mont.

HJR 4, introduced by Scully. Referred to Committee on Business and Industry.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Lockrem in the Chair.

Senate resumed. President Mathers in the Chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That Senate Bill No. 75 do pass. Unanimously passed.

That Senate Bill No. 80 do pass. Unanimously passed.

That Senate Bill No. 82 do pass. Opposed by Aklestad, Boylan, B. Brown, Dover, Etchart, Graham, Kolstad, Lockrem, Manley, McCallum, Nelson, Olson, Severson, E. Smith.

That Senate Bill No. 83 do pass. Unanimously passed.

That Senate Bill No. 92 do pass. Unanimously passed.

That consideration of Senate Bill No. 93 be passed for the day. Unanimously passed.

That Senate Bill No. 94 do pass. Unanimously passed.

That consideration of Senate Bill No. 113 be passed for the day. Unanimously passed.

That Senate Bill No. 149 do pass. Unanimously passed.

That Senate Bill No. 189 follow Senate Bill No. 194.

That Senate Bill No. 194 do pass. Opposed by Conover, Healy, Himsl, Lowe, Norman, Palmer, Van Valkenburg, Watt.

That Senate Bill No. 189 be amended as follows:

1. Title, line 6.
Following: "OR"
Strike: PRIVATE NONPROFIT AGENCIES"
Insert: "REGIONAL SERVICES"

2. Title, line 6.
Following: "REGIONAL"
Strike: "SERVICES"
Insert: "SERVICE ORGANIZATION"

(Amendment No. 2 opposed by Aklestad, Anderson, Boylan, Etchart, Galt, Kolstad, Lensink, Lockrem, Lowe, Manley, McCallum, Nelson, Olson, O'Hara, E. Smith, Thomas, Mr. President.)

3. Page 3, line 8.
Following: "cooperative"
Strike: "services"
Insert: "service organizations"

4. Page 3, line 9.
Following: line 8
Strike: "services"
Insert: "service organizations"

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3rd Reading

Manning, Mehrens, Nelson, Norman, Olson, O'Hara, Palmer, Peterson, Rasmussen, Regan, Ryan, R. Smith, Stephens, Stimatz, Thomas, Towe, Turnage, Van Valkenburg, Watt.
Total 33

Noes: Aklestad, Boylan, B. Brown, Dover, Etchart, Kolstad, Lockrem, McCallum, Severson, E. Smith, Story, Thiessen, Mr. President.
Total 13

Excused: Blaylock, Conover, Manley, Roskie.
Total 4

Absent or not voting: None.
Total 0

Senate Bill No. 83 was passed by the following vote:

Ayes: Aklestad, Anderson, Boylan, B. Brown, S. Brown, Dover, Etchart, Fasbender, Galt, Goodover, Graham, Hafferman, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lensink, Lockrem, Lowe, Manning, McCallum, Mehrens, Nelson, Norman, Olson, O'Hara, Palmer, Peterson, Rasmussen, Regan, Ryan, Severson, E. Smith, R. Smith, Stephens, Stimatz, Story, Thiessen, Thomas, Towe, Turnage, Van Valkenburg, Watt, Mr. President.
Total 46

Noes: None.
Total 0

Excused: Blaylock, Conover, Manley, Roskie.
Total 4

Absent or not voting: None.
Total 0

Senate Bill No. 92 was passed by the following vote:

Ayes: Aklestad, Anderson, Boylan, B. Brown, S. Brown, Dover, Etchart, Fasbender, Galt, Goodover, Graham, Hafferman, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lensink, Lowe, Manning, McCallum, Mehrens, Nelson, Norman, Olson, O'Hara, Palmer, Peterson, Rasmussen, Regan, Ryan, Severson, E. Smith, R. Smith, Stephens, Stimatz, Story, Thiessen, Thomas, Towe, Turnage, Van Valkenburg, Watt, Mr. President.
Total 45

Noes: Lockrem.
Total 1

Excused: Blaylock, Conover, Manley, Roskie.
Total 4

Absent or not voting: None.
Total 0

Senate Bill No. 94 was passed by the following vote:

Ayes: Aklestad, Anderson, Boylan, B. Brown, S. Brown, Dover, Etchart, Fasbender, Galt, Goodover, Graham, Hafferman, Hager, Hazelbaker, Healy, Himsl, Jergeson, Kolstad, Lensink, Lockrem, Lowe, Manning, McCallum, Mehrens, Nelson, Norman, Olson, O'Hara, Palmer, Peterson, Rasmussen, Regan, Ryan, Severson, E. Smith, R. Smith, Stephens, Stimatz, Story, Thiessen, Towe, Turnage, Van Valkenburg, Watt, Mr. President.
Total 45

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Business & Industry COMMITTEE

__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 83	"AN ACT TO PROVIDE FOR THE REGULATION AND REGISTRATION OF PERSONS WHO COLLECT CHARGES OR PERMIUMS RO ADJUST OR SETTLE CLAIMS ON LIFE OR HEALTH INSURANCE POLICIES OR ANNUITIES OF RESIDENTS	2/5	DOVER	3/9	BE CONCURRED IN	3/9
SB 94	"AN ACT TO REVISE THE LAW RELATING TO STANDARD VALUATION AND STANDARD NONFORFEITURE IN LIFE INSURANCE;	2/5	HAZELBAKER	3/9	BE CONCURRED IN	3/9
SB 92	"AN ACT TO REVISE THE LICENSE FEE SCHEDULE RELATING TO THE INSURANCE INDUSTRY AND TO REVISE THE TERMINOLOGY FOR RENUEAL LICENSES..."	2/5	BLAYLOCK	3/9	BE CONCURRED IN	3/9
SB 82	"AN ACT TO ALLOW THE USE OF METRIC SIZES FOR PACKAGING AND TO PROVIDE RULEMAKING BY THE DEPARTMENT."	2/5	REGAN	2/28/79	BE CONCURRED IN	2/28
HB 572 fiscal	"AN ACT TO AMEND 15-57-102 MCA, TO PROVIDE THAT GRAIN MERCHANDISERS ARE EXEMPT FROM STATE STORE LICENSING REQUIREMENTS."	2/6	MANUEL	2/13	DO NOT PASS	2/13
HB 594	"AN ACT TO REESTABLISH THE OFFICE OF THE COMMISSIONER OF INSURANCE AND THE INSURANCE DEPT. IN THE STATE AUDITOR'S OFFICE ..."	2/6	SCULLY	2/14	DO PASS	2/14

Senate BILL NO. 83

INTRODUCED BY Doug Blaylock

BY REQUEST OF THE STATE COMMISSIONER OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE REGULATION AND REGISTRATION OF PERSONS WHO COLLECT CHARGES OR PREMIUMS OR ADJUST OR SETTLE CLAIMS ON LIFE OR HEALTH INSURANCE POLICIES OR ANNUITIES OF RESIDENTS OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Administrator defined. As used in [this act], the term "administrator" means any person, corporation, partnership, or association who collects charges or premiums from residents of this state in connection with life or health insurance coverage or annuities or who adjusts or settles claims on such coverage but does not include:

(1) an employer on behalf of its employees or on behalf of the employees of one or more subsidiary or affiliated corporations of such employer;

(2) a union on behalf of its members;

(3) an insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or health service corporation as defined in 33-30-101;

(4) a life or health agent who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(5) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(6) a trust established in conformity with 29 U.S.C. 186, its trustees, or agents and employees acting thereunder;

(7) a trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, or employees acting thereunder;

(8) a custodian acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code or its agents and employees;

(9) a bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities;

(10) a credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims; or

(11) a person who adjusts or settles claims in the

SB 83 THIRD READING

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normal course of his practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Section 2. Written agreement required. (1) No person may act as an administrator without a written agreement between the person and the insurer. The written agreement shall be retained as part of the official records of both the administrator and the insurer for the duration of the agreement and for 5 years thereafter. The written agreement shall contain provisions which include the requirements of [sections 4 through 10] insofar as these requirements relate to the functions performed by the administrator.

(2) The agreement shall contain a provision with respect to the underwriting or other standards pertaining to the business underwritten by such insurer.

(3) Whenever a policy is issued to a trustee, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the administrator and the insurer for the duration of the policy and for 5 years thereafter.

Section 3. Maintenance of information. For the duration of the agreement required by [section 2] and for 5 years thereafter, each administrator shall maintain at its

principal administrative office adequate books and records of all transactions between the administrator, insurers, and insured persons. These books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner of insurance shall have access to these books and records for examination, audit, or inspection. Any trade secrets contained in the books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except that the commissioner may use such information in any proceedings instituted against the administrator. The insurer retains the right to continuing access to those books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and the administrator.

Section 4. Approval of advertising. An administrator may use only such advertising pertaining to the business underwritten by an insurer as is approved by the insurer in advance of its use.

Section 5. Collection of charges and premiums. (1) All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers and return premiums received from such insurer or insurers are held by

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the administrator in a fiduciary capacity. These funds shall be immediately remitted to the person or persons entitled thereto or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If deposited charges or premiums were collected on behalf of or for more than one insurer, the administrator shall require the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall promptly obtain and keep copies of all these records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for the insurer.

(2) The administrator shall not pay any claim by withdrawals from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the administrator and the insurer, for:

(a) remittance to an insurer entitled thereto;

(b) deposit in an account maintained in the name of such insurer;

(c) transfer to and deposit in a claims paying account, with claims to be paid as provided in [section 7];

(d) payment to a group policyholder for remittance to the insurer entitled thereto;

(e) payment to the administrator of its commission, fees, or charges; or

(f) remittance of return premiums to the person or persons entitled thereto.

Section 6. Treatment of payments. Whenever an insurer utilizes the services of an administrator under the terms of a written contract as required in [section 2], the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured is considered to be received by the insurer and the payment of return premiums or claims by the insurer to the administrator is not considered payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the administrator resulting from the administrator's failure to make payments to the insurer, insureds, or claimants.

Section 7. Payment of claims. All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on drafts of and as authorized by such insurer.

Section 8. Delivery of documents. Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to its policyholders shall be delivered by the administrator promptly after receipt of

SB 83

instructions from the insurer to do so.

Section 9. Claim adjustment and settlement. With respect to any policies where an administrator adjusts or settles claims, the compensation to the administrator with regard to the policies shall in no way be contingent on claim experience. This section does not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

Section 10. Bonding requirements. Every administrator shall be bonded. The amount of the bond shall be not less than 10% of the amount of total funds handled and not less than $1,000, but need not be more than $500,000 unless a larger amount has been agreed to between the insurer and the administrator. For fixing the amount of the bond, the amount of funds handled shall be determined by the total funds handled by the administrator during the preceding year or, if no funds were handled during the preceding year, the amount of funds reasonably estimated to be handled during the current calendar year by the administrator. The bond shall provide protection to the insurer or insurers against loss by reason of acts of fraud or dishonesty and may include individual bonds or schedule or blanket forms of bonds. Only one bond shall be required of the administrator for all insureds which utilize the services of the

administrator, unless provided otherwise in the written agreement between the insurer and the administrator.

Section 11. Insured persons to be notified of availability of administrator. Whenever the services of an administrator are utilized, the administrator shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship between the administrator, the policyholder, and the insurer. Whenever an administrator collects funds, the administrator shall identify and state, separately in writing, to the person paying to the administrator any charge or premium for insurance coverage the amount of such charge or premium specified by the insurer for the insurance coverage.

Section 12. Certificate of registration. (1) Except as provided in [section 13], no person may act as or hold himself out to be an administrator in this state unless he holds a certificate of registration as an administrator.

(2) An application for a certificate of registration must be accompanied by a fee of $100. The commissioner of insurance shall issue the certificate unless he finds that the applicant is not competent, trustworthy, financially responsible, or of good personal and business reputation or that the applicant has had a previous application for an insurance license denied for cause within 5 years.

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(3) The certificate of registration is renewable annually on the date of issue. A request for renewal must be accompanied by a renewal fee of $100.

(4) The certificate of registration may be suspended or revoked if, after notice and hearing, the commissioner finds that the administrator has violated any of the requirements of [sections 2 through 11] or that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

(5) Unless the certification requirement is waived, any administrator who acts as such without the certificate of registration is subject to a fine of not less than $500 or more than $1,500.

Section 13. Waiver of certification requirements. The commissioner of insurance may waive the requirements of [section 12] for any person or class of persons. The factors taken into account in granting such waiver shall include but are not limited to:

(1) whether the person acting as an administrator is primarily in a business other than that of administrator;

(2) whether the financial strength and history of the organization indicates stability in its continuity of doing business;

(3) whether the regular duties being performed as an administrator are such that the covered persons are not

likely to be injured by a waiver of such requirements.

-End-

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March 9, 1979
Business & Industry
46th Legislative Session

The House Business & Industry Committee held a meeting at 9:00 a.m. in room 437, March 9, 1979. All members were present except Rep. Vincent and Rep. Kessler who were excused.

Hearing was opened on SB 85.

Senator Kolstad, sponsor, introduced the bill to the committee. The bill would "amend section 33-5-401, MCA, increasing the surplus fund requirements of reciprocal insurers".

Jo Driscoll, representing the Commissioner of Insurance office, arose in support of the bill and stated that she would be available to answer questions concerning any of the bills being heard by the committee today.

There were no opponents to SB 85.

Chairman Quilici asked the committee if they had questions. Being none, Senator Kolstad closed on SB 85.

SB 83

Senator Dover, sponsor, introduced the bill to the committee. The bill would provide for "regulation and registration of persons who collect charges or premiums or adjust or settle claims on life or health insurance policies or annuities of residents of Montana".

Les Lobel, American Council of Life Insurance, appeared in support of SB 83. He said that the council which represents about 93% of all life insurance written in the United States was in favor of the bill. He said there is a growing need for these services but there must be regulation.

There were no opponents to SB 83.

Chairman Quilici called for questions from the committee.

Senator Dover closed.

SB 93

Senator Lowe, sponsor, explained the bill to the committee. The bill would generally revise the laws relating to "insurance agents, solicitors, adjusters, and consultants". He said the bill would provide the licensing of non resident partnership or corporations. It will also eliminate the discriminatory language on the application for licenses. The bill would also require applicants to be qualified before

EXECUTIVE SESSION:

Rep. Tropila made a motion that SB 94 NOT BE CONCURRED IN. Following Discussion:

Rep. Ellison made a sub-motion that SB 94 BE CONCURRED IN. A vote was called and carried unanimously with two members absent.

Rep. Tropila will carry SB 94 in the House.

SB 93

Rep. Harper moved that SB 93 BE CONCURRED IN. Discussion on the motion followed. A vote carried unanimously.

Rep. Harper will carry the bill in the House.

SB 92

Rep. Metcalf moved that SB 92 BE CONCURRED IN. Discussion on the motion followed. A vote was taken and carried 16 - 1 with 2 absent. Rep. Tropila voted no.

Rep. Metcalf will carry the bill in the House.

SB 83

Rep. Meyer made a motion that SB 83 BE CONCURRED IN. Following discussion a vote was taken and carried unanimously.

Rep. Meyer will carry the bill in the House.

SB 85

Rep. Harper moved that SB 85 BE CONCURRED IN. Following discussion a vote was called and carried unanimously.

Rep. Ellerd will carry SB 85 in the House.

Chairman Quilici said that the committee would meet Tuesday March 13, to take executive action on SB 302.

Motion was made to adjourn at 9:55 a.m.

Respectfully submitted,

JOE QUILICI, Chairman

Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Mr. Speaker.
Total 84

Noes: Brand, Burnett, Ellison, Harper, Quilici.
Total 5

Excused: Gesek, Jensen, Lund, Moore, Pistoria, Yardley.
Total 6

Absent or not voting: Bertelsen, Ellis, Iverson, Reichert, Shelden.
Total 5

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Dussault moved that the House resolve itself into a Committee of the Whole, for the consideration of business on Second Reading. Motion carried.

Bennett in the Chair. Committee arose.

House resumed. Mr. Speaker in the Chair.

Mr. Speaker: We, your Committee of the Whole, having had under consideration business on Second Reading, recommend as follows:

That SB 304 be concurred in. (84-0)

That SB 406 be concurred in. (53-34)

That SB 83 be concurred in. (77-1)

That SB 85 be concurred in. (81-0)

Moore, Pistoria present at this time.

That SB 92 be concurred in. (84-0)

That SB 93 be concurred in. (80-0)

That SB 94 be concurred in. (83-1)

That SB 126 be concurred in. (78-0)

That SB 149 be concurred in. (88-0)

Lund, Gesek, Yardley present at this time.

That SB 155, third reading copy, second printing, be amended as follows: (87-6)

1. Page 1.
Following: line 19
Insert: "(1) an individual employed as an outside buyer of poultry, eggs, cream, or milk, in their raw or natural state;"
Renumber: subsequent subsections

2. Page 1, line 25.
Following: "trucks,"
Insert: "mobile homes, recreational vehicles,"

3. Page 2.
Following: line 8
Insert: "(4) a mechanic primarily engaged in servicing farm implements;"

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

Senate Bill No. 80 was concurred in by the following vote:

Ayes: Anderson, Azzara, Baeth, Bengtson, Bennett, Bertelsen, Brand, Burnett, Cooney, Curtiss, Daily, Dassinger, Day, Donaldson, Dozier, Dussault, Ellerd, Ellis, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Frates, Gesek, Gilligan, Gould, Hand, Harrington, Hayne, Hemstad, Hirsch, Holmes, Huennekens, Iverson, Jensen, Johnson, Johnston, Kanduch, Keedy, Kemmis, Kessler, Keyser, Kropp, Kvaalen, Lien, Lory, Lund, McBride, Magone, Manning, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Nathe, Oberg, O'Connell, Pavlovich, Pistoria, Porter, Quilici, Ramirez, Reichert, H. Robbins, K. Robbins, Rosenthal, Roth, Sales, Schultz, Seifert, Shelden, Sivertsen, Smith, Spilker, Staigmiller, Stobie, Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Williams, Wood, Wyrick, Yardley, Mr. Speaker.
Total 92

Noes: None.
Total 0

Excused: Conroy, Harper, Hurwitz, Nordtvedt.
Total 4

Absent or not voting: Bardanouve, Scully, South, Waldron.
Total 4

Senate Bill No. 81 was concurred in by the following vote:

Ayes: Anderson, Azzara, Baeth, Bengtson, Bennett, Bertelsen, Brand, Burnett, Cooney, Curtiss, Daily, Dassinger, Day, Donaldson, Dussault, Ellerd, Ellis, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Frates, Gesek, Gilligan, Gould, Hand, Harrington, Hayne, Hemstad, Hirsch, Holmes, Huennekens, Iverson, Jensen, Johnson, Johnston, Kanduch, Kemmis, Kessler, Keyser, Kropp, Kvaalen, Lien, Lory, Lund, McBride, Magone, Manning, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Nathe, Oberg, O'Connell, Pavlovich, Pistoria, Porter, Quilici, Ramirez, Reichert, H. Robbins, K. Robbins, Rosenthal, Roth, Sales, Schultz, Seifert, Shelden, Smith, Spilker, Staigmiller, Stobie, Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Yardley, Mr. Speaker.
Total 90

Noes: None.
Total 0

Excused: Conroy, Harper, Hurwitz, Nordtvedt.
Total 4

Absent or not voting: Bardanouve, Dozier, Keedy, Scully, Sivertsen, South.
Total 6

Senate Bill No. 83 was concurred in by the following vote:

Ayes: Anderson, Azzara, Baeth, Bengtson, Bennett, Bertelsen, Brand, Burnett, Cooney, Curtiss, Daily, Dassinger, Day, Donaldson, Dozier, Dussault, Ellerd, Ellis, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Frates, Gesek, Gilligan, Gould, Hand, Harrington, Hayne, Hemstad, Hirsch, Holmes, Iverson, Jensen, Johnson, Johnston, Kanduch, Keedy,

Kemmis, Kessler, Keyser, Kropp, Kvaalen, Lien, Lory, Lund, McBride, Magone, Manning, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Nathe, Oberg, O'Connell, Pavlovich, Pistoria, Porter, Quilici, Ramirez, Reichert, H. Robbins, K. Robbins, Rosenthal, Roth, Sales, Schultz, Seifert, Shelden, Sivertsen, Smith, Spilker, Staigmiller, Stobie, Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Yardley, Mr. Speaker.
Total 92

Noes: None.
Total 0

Excused: Conroy, Harper, Hurwitz, Nordtvedt.
Total 4

Absent or not voting: Bardanouve, Huennekens, Scully, South.
Total 4

Senate Bill No. 85 was concurred in by the following vote:

Ayes: Anderson, Azzara, Baeth, Bennett, Bertelsen, Brand, Burnett, Cooney, Curtiss, Daily, Dassinger, Day, Donaldson, Dozier, Dussault, Ellerd, Ellis, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Frates, Gesek, Gilligan, Gould, Hand, Harrington, Hayne, Hemstad, Hirsch, Holmes, Iverson, Jensen, Johnson, Johnston, Kanduch, Keedy, Kemmis, Kessler, Keyser, Kropp, Kvaalen, Lien, Lory, Lund, McBride, Magone, Manning, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Nathe, Oberg, O'Connell, Pavlovich, Pistoria, Porter, Quilici, Ramirez, Reichert, H. Robbins, K. Robbins, Rosenthal, Roth, Sales, Schultz, Seifert, Shelden, Sivertsen, Smith, Spilker, Staigmiller, Stobie, Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Yardley, Mr. Speaker.
Total 91

Noes: None.
Total 0

Excused: Conroy, Harper, Hurwitz, Nordtvedt.
Total 4

Absent or not voting: Bardanouve, Bengtson, Huennekens, Scully, South.
Total 5

Senate Bill No. 92 was concurred in by the following vote:

Ayes: Anderson, Azzara, Baeth, Bengtson, Bennett, Bertelsen, Brand, Burnett, Cooney, Curtiss, Daily, Dassinger, Day, Donaldson, Dozier, Dussault, Ellerd, Ellis, Ellison, Ernst, Eudaily, Fabrega, Fagg, Feda, Frates, Gesek, Gilligan, Gould, Hand, Harrington, Hayne, Hemstad, Hirsch, Holmes, Huennekens, Iverson, Jensen, Johnson, Johnston, Kanduch, Keedy, Kemmis, Kessler, Keyser, Kropp, Kvaalen, Lien, Lory, Lund, McBride, Magone, Manning, Manuel, Marks, Menahan, Metcalf, Meyer, Moore, Nathe, Oberg, O'Connell, Pavlovich, Pistoria, Porter, Quilici, Ramirez, Reichert, H. Robbins, K. Robbins, Rosenthal, Roth, Sales, Schultz, Seifert, Shelden, Sivertsen, Smith, Spilker, Staigmiller, Stobie, Teague, Thoft, Tropila, Uhde, Underdal, Vincent, Vinger, Waldron, Williams, Wood, Wyrick, Yardley, Mr. Speaker.
Total 93

Noes: None.
Total 0

Excused: Conroy, Harper, Hurwitz, Nordtvedt.

SENATE BILL NO. 83

INTRODUCED BY DOVER, BLAYLOCK

BY REQUEST OF THE STATE COMMISSIONER OF INSURANCE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE REGULATION AND REGISTRATION OF PERSONS WHO COLLECT CHARGES OR PREMIUMS OR ADJUST OR SETTLE CLAIMS ON LIFE OR HEALTH INSURANCE POLICIES OR ANNUITIES OF RESIDENTS OF MONTANA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Administrator defined. As used in [this act], the term "administrator" means any person, corporation, partnership, or association who collects charges or premiums from residents of this state in connection with life or health insurance coverage or annuities or who adjusts or settles claims on such coverage but does not include:

(1) an employer on behalf of its employees or on behalf of the employees of one or more subsidiary or affiliated corporations of such employer;

(2) a union on behalf of its members;

(3) an insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business or health service corporation as defined in 33-30-101;

(4) a life or health agent who is licensed in this state and whose activities are limited exclusively to the sale of insurance;

(5) a creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors;

(6) a trust established in conformity with 29 U.S.C. 186, its trustees, or agents and employees acting thereunder;

(7) a trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, or employees acting thereunder;

(8) a custodian acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code or its agents and employees;

(9) a bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities;

(10) a credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, provided such company does not adjust or settle claims; or

(11) a person who adjusts or settles claims in the

REFERENCE BILL

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normal course of his practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Section 2. Written agreement required. (1) No person may act as an administrator without a written agreement between the person and the insurer. The written agreement shall be retained as part of the official records of both the administrator and the insurer for the duration of the agreement and for 5 years thereafter. The written agreement shall contain provisions which include the requirements of [sections 4 through 10] insofar as these requirements relate to the functions performed by the administrator.

(2) The agreement shall contain a provision with respect to the underwriting or other standards pertaining to the business underwritten by such insurer.

(3) Whenever a policy is issued to a trustee, a copy of the trust agreement and any amendments thereto shall be furnished to the insurer by the administrator and shall be retained as part of the official records of both the administrator and the insurer for the duration of the policy and for 5 years thereafter.

Section 3. Maintenance of information. For the duration of the agreement required by [section 2] and for 5 years thereafter, each administrator shall maintain at its

principal administrative office adequate books and records of all transactions between the administrator, insurers, and insured persons. These books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner of insurance shall have access to these books and records for examination, audit, or inspection. Any trade secrets contained in the books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except that the commissioner may use such information in any proceedings instituted against the administrator. The insurer retains the right to continuing access to those books and records of the administrator sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and the administrator.

Section 4. Approval of advertising. An administrator may use only such advertising pertaining to the business underwritten by an insurer as is approved by the insurer in advance of its use.

Section 5. Collection of charges and premiums. (1) All insurance charges or premiums collected by an administrator on behalf of or for an insurer or insurers and return premiums received from such insurer or insurers are held by

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the administrator in a fiduciary capacity. These funds shall be immediately remitted to the person or persons entitled thereto or shall be deposited promptly in a fiduciary bank account established and maintained by the administrator. If deposited charges or premiums were collected on behalf of or for more than one insurer, the administrator shall require the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from such account on behalf of or for each insurer. The administrator shall promptly obtain and keep copies of all these records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for the insurer.

(2) The administrator shall not pay any claim by withdrawals from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the administrator and the insurer, for:

(a) remittance to an insurer entitled thereto;

(b) deposit in an account maintained in the name of such insurer;

(c) transfer to and deposit in a claims paying account, with claims to be paid as provided in [section 7];

(d) payment to a group policyholder for remittance to the insurer entitled thereto;

(e) payment to the administrator of its commission, fees, or charges; or

(f) remittance of return premiums to the person or persons entitled thereto.

Section 6. Treatment of payments. Whenever an insurer utilizes the services of an administrator under the terms of a written contract as required in [section 2], the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured is considered to be received by the insurer and the payment of return premiums or claims by the insurer to the administrator is not considered payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the administrator resulting from the administrator's failure to make payments to the insurer, insureds, or claimants.

Section 7. Payment of claims. All claims paid by the administrator from funds collected on behalf of the insurer shall be paid only on drafts of and as authorized by such insurer.

Section 8. Delivery of documents. Any policies, certificates, booklets, termination notices, or other written communications delivered by the insurer to the administrator for delivery to its policyholders shall be delivered by the administrator promptly after receipt of

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instructions from the insurer to do so.

Section 9. Claim adjustment and settlement. With respect to any policies where an administrator adjusts or settles claims, the compensation to the administrator with regard to the policies shall in no way be contingent on claim experience. This section does not prevent the compensation of an administrator from being based on premiums or charges collected or number of claims paid or processed.

Section 10. Bonding requirements. Every administrator shall be bonded. The amount of the bond shall be not less than 10% of the amount of total funds handled and not less than $1,000, but need not be more than $500,000 unless a larger amount has been agreed to between the insurer and the administrator. For fixing the amount of the bond, the amount of funds handled shall be determined by the total funds handled by the administrator during the preceding year or, if no funds were handled during the preceding year, the amount of funds reasonably estimated to be handled during the current calendar year by the administrator. The bond shall provide protection to the insurer or insurers against loss by reason of acts of fraud or dishonesty and may include individual bonds or schedule or blanket forms of bonds. Only one bond shall be required of the administrator for all insureds which utilize the services of the

administrator, unless provided otherwise in the written agreement between the insurer and the administrator.

Section 11. Insured persons to be notified of availability of administrator. Whenever the services of an administrator are utilized, the administrator shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship between the administrator, the policyholder, and the insurer. Whenever an administrator collects funds, the administrator shall identify and state, separately in writing, to the person paying to the administrator any charge or premium for insurance coverage the amount of such charge or premium specified by the insurer for the insurance coverage.

Section 12. Certificate of registration. (1) Except as provided in [section 13], no person may act as or hold himself out to be an administrator in this state unless he holds a certificate of registration as an administrator.

(2) An application for a certificate of registration must be accompanied by a fee of $100. The commissioner of insurance shall issue the certificate unless he finds that the applicant is not competent, trustworthy, financially responsible, or of good personal and business reputation or that the applicant has had a previous application for an insurance license denied for cause within 5 years.

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(3) The certificate of registration is renewable annually on the date of issue. A request for renewal must be accompanied by a renewal fee of $100.

(4) The certificate of registration may be suspended or revoked if, after notice and hearing, the commissioner finds that the administrator has violated any of the requirements of [sections 2 through 11] or that the administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

(5) Unless the certification requirement is waived, any administrator who acts as such without the certificate of registration is subject to a fine of not less than $500 or more than $1,500.

Section 13. Waiver of certification requirements. The commissioner of insurance may waive the requirements of [section 12] for any person or class of persons. The factors taken into account in granting such waiver shall include but are not limited to:

(1) whether the person acting as an administrator is primarily in a business other than that of administrator;

(2) whether the financial strength and history of the organization indicates stability in its continuity of doing business;

(3) whether the regular duties being performed as an administrator are such that the covered persons are not

likely to be injured by a waiver of such requirements.

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